

# HOUSE BILL No. 1414

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2.

**Synopsis:** Notice of utility service termination. Requires a utility that provides utility service to a tenant occupied premises to notify the owner of the premises if: (1) fees or charges for utility service provided to the premises are not paid within 30 days after they become due; or (2) the utility terminates or plans to terminate service to the premises. Specifies the method and time by which a utility must provide the required notice. Provides that a lien that would otherwise attach to a tenant occupied premises for nonpayment of fees or charges for utility service may not attach unless the utility provided the owner of the premises with the required notice of the tenant's delinquency.

**Effective:** July 1, 2007.

**Goodin**

January 16, 2007, read first time and referred to Committee on Commerce, Energy and Utilities.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1414

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 8-1-2-121, AS AMENDED BY P.L.181-2006,  
2       SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2007]: Sec. 121. (a) Notwithstanding any other provision of  
4       law, from December 1 through March 15 of any year, no electric or gas  
5       utility, including a municipally owned, privately owned, or  
6       cooperatively owned utility, shall terminate residential electric or gas  
7       service for persons who are eligible for and have applied for assistance  
8       from a heating assistance program administered under IC 4-4-33. The  
9       commission shall implement procedures to ensure that electric or gas  
10      utility service is continued while eligibility for such persons is being  
11      determined.

12      (b) Any electric or gas utility, including a municipally owned,  
13      privately owned, or cooperatively owned utility, shall provide any  
14      residential customer whose account is delinquent an opportunity to  
15      enter into a reasonable amortization agreement with such company to  
16      pay the delinquent account. Such an amortization agreement must  
17      provide the customer with adequate opportunity to apply for and

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1 receive the benefits of any available public assistance program. An  
 2 amortization agreement is subject to amendment on the customer's  
 3 request if there is a change in the customer's financial circumstances.

4 (c) The commission may establish a reasonable rate of interest  
 5 which a utility may charge on the unpaid balance of a customer's  
 6 delinquent bill that may not exceed the rate established by the  
 7 commission under section 34.5 of this chapter.

8 (d) The commission shall adopt rules under IC 4-22-2 to carry out  
 9 the provisions of this section.

10 (e) This section does not prohibit an electric or gas utility from  
 11 terminating residential utility service upon a request of a customer or  
 12 under the following circumstances:

13 (1) If a condition dangerous or hazardous to life, physical safety,  
 14 or property exists.

15 (2) Upon order by any court, the commission, or other duly  
 16 authorized public authority.

17 (3) If fraudulent or unauthorized use of electricity or gas is  
 18 detected and the utility has reasonable grounds to believe the  
 19 affected customer is responsible for such use.

20 (4) If the utility's regulating or measuring equipment has been  
 21 tampered with and the utility has reasonable grounds to believe  
 22 that the affected customer is responsible for such tampering.

23 **(f) This section does not relieve a utility of the duty to notify the**  
 24 **owner of a tenant occupied premises (as defined in section 122.5(a)**  
 25 **of this chapter) of:**

26 **(1) a tenant's nonpayment of any fees or other charges for**  
 27 **utility service provided to the premises; or**

28 **(2) the utility's:**

29 **(A) termination of; or**

30 **(B) planned termination of;**

31 **utility service to the premises;**

32 **as required by section 122.5 of this chapter.**

33 SECTION 2. IC 8-1-2-122 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 122. (a) As used in this  
 35 section:

36 "Dwelling" means an individual residence, including a mobile home  
 37 or trailer, or a room or combination of rooms, with facilities for living  
 38 for a single household.

39 "Heating season" means the period beginning on November 1 of any  
 40 year and ending on the following April 1.

41 **"Tenant occupied premises" has the meaning set forth in section**  
 42 **122.5(a) of this chapter.**

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(b) A utility, including a municipally owned utility, that provides energy or fuel to an occupied dwelling may not, during the heating season, terminate service to the dwelling because of the failure of the customer to pay his energy or fuel bills until fourteen (14) days after it serves notice upon the customer of its intent to terminate service.

(c) A notice served under this section must be in language that is clear, concise, and easily understandable to a layman. It must, in separately numbered paragraphs:

- (1) indicate the date on which service will be terminated;
- (2) state the reason and factual basis for the termination of service;
- (3) list the telephone number of the utility office that the customer may call during regular business hours in order to question the proposed termination of service or to seek information concerning his rights; and
- (4) state that the customer may refer to the pamphlet furnished to him under 170 IAC 4-1-18 for information as to his rights.

(d) Service of a notice under this section must be by:

- (1) mail addressed to the customer; or
- (2) personal delivery to the customer or to a responsible member of his household;

at the address listed for the customer in the records of the utility. **If the planned termination of service involves a tenant occupied premises, the utility shall also send notice of the planned termination to the owner of the premises, in accordance with section 122.5 of this chapter.**

(e) No notice may be served under this section before the date on which the customer's account becomes delinquent.

SECTION 3. IC 8-1-2-122.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 122.5. (a) As used in this section, "tenant occupied premises" means any:**

- (1) dwelling;**
- (2) building;**
- (3) property; or**
- (4) other premises;**

**that is occupied or used by a person other than the owner of the dwelling, building, property, or premises.**

**(b) As used in this section, "utility" includes any of the following that provide utility service:**

- (1) A public utility (as defined in IC 8-1-2-1(a)).**
- (2) A municipally owned utility (as defined in IC 8-1-2-1(h)).**

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(3) A rural electric membership corporation organized under IC 8-1-13.

(4) A corporation organized under IC 23-17 that:

(A) is an electric cooperative; and

(B) has at least one (1) member that is a corporation organized under IC 8-1-13.

(5) A utility governed and managed by the department of public utilities for a consolidated city under IC 8-1-11.1.

(6) A not-for-profit utility (as defined in IC 8-1-2-125).

(c) As used in this section, "utility service" means the provision of any of the following directly to a person in Indiana for domestic, commercial, or industrial use:

(1) Electrical energy.

(2) Natural gas, either mixed with another substance or pure, used for heat, light, cooling, or power.

(3) Water.

(4) Steam.

(5) Service involving the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

(d) If fees or other charges for utility service provided by a utility to a tenant occupied premises are not paid within thirty (30) days after the fees or charges are due, a copy of any notice of delinquency sent to the tenant must be sent to the owner of the premises. The utility shall send the owner's copy of the notice by United States mail to:

(1) the address:

(A) provided by the owner to the utility; and

(B) designated by the owner as the address to which any notice under this section is to be sent; or

(2) if the owner does not provide an address under subdivision (1), the latest address of the owner as shown on the property tax records of the county in which the tenant occupied premises is located.

The utility shall mail the owner's copy of the notice not later than three (3) business days after the notice of delinquency is mailed or delivered to the tenant.

(e) If a utility:

(1) terminates; or

(2) plans to terminate;

utility service to a tenant occupied premises, the utility shall provide written notice of the termination or planned termination

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to the owner of the premises.

(f) A utility shall send the notice required by subsection (e) by United States mail to:

(1) the address:

(A) provided by the owner to the utility; and

(B) designated by the owner as the address to which any notice under this section is to be sent; or

(2) if the owner does not provide an address under subdivision (1), the latest address of the owner as shown on the property tax records of the county in which the tenant occupied premises is located.

(g) The utility shall mail the notice required by subsection (e) to the owner:

(1) not later than three (3) business days after the termination, if the utility service is terminated:

(A) at the request of the tenant; or

(B) under any of the circumstances described in section 121(e) of this chapter; or

(2) not later than three (3) business days after a notice of the planned termination is mailed or delivered to the tenant, if the utility plans to terminate utility service to the tenant occupied premises because of nonpayment of fees or other charges for utility service provided to the tenant occupied premises.

(h) This section does not relieve a utility that provides electric or gas utility service of any of the following duties:

(1) The utility's duty under section 121 of this chapter to continue providing utility service during the heating season to persons who are eligible for and have applied for heating assistance.

(2) The utility's duty under section 121 of this chapter to provide a delinquent residential customer an opportunity to enter into a reasonable amortization agreement.

(3) The utility's duty under section 122 of this chapter to provide notice of a planned termination of service during the heating season.

(i) Except as provided by IC 36-9-23-32(c) or any other law, if:

(1) any law allows a lien to attach to real property because of the nonpayment of fees or other charges for utility service provided to the property; and

(2) a tenant occupied premises would be subject to a lien under a law described in subdivision (1);

the lien otherwise allowed by law does not attach to the tenant

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1 occupied premises unless the notice required under subsection (d)  
2 was provided to the owner of the premises in accordance with  
3 subsection (d).

4 (j) The commission may adopt rules under IC 4-22-2 to  
5 implement this section.

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